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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,846	02/04/2002	Blaine Miller	1862-D	5159

7590

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EXAMINER
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NGUYEN, PHONG H

ART UNIT	PAPER NUMBER
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3724

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DATE MAILED: 03/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/066,846

Applicant(s)

MILLER, BLAINE

Examiner

Phong H Nguyen

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 and 37-41 is/are allowed.
- 6) ☒ Claim(s) 1-13 and 21-36 is/are rejected.
- 7) ☒ Claim(s) 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the T-shaped groove in claims 3, 4, 16 and 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 112***

3. Claims 7, 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 7 and 8, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding the last two lines of claim 8, it is unclear whether it is the front plus-shaped groove or the back plus-shaped groove.

***Claim Rejections - 35 USC § 103***

4. Claims 1-7, 10, 13, 21, 24 and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duginske (5,768,966) in view of Price (4,693,158).

Regarding claims 1, 10, 21, 24 and 25-31, Duginske teaches a woodworking tool comprising a working surface R having an elongated slot and a fence 200. The fence 200 comprising an elongated body having a top end 222 with top end slots, a front face 220 with front end slots 214 and 216 and a back face 225 with a back face slot 218. See Figs. 1, 2 and 10. Duginske, however, does not teach a planar face integrally extending outwardly and upwardly and a measurement device seated on the planar face. Price teaches a planar face integrally extending outwardly and upwardly and a measurement device seated on the planar face. See Fig. 6. Therefore, it would have been obvious to incorporate the planar surface with the measurement device as taught by Price to the fence of Duginske so that operators can measure the length of a work piece easily and precisely.

Regarding claim 2, Duginske teach everything but does not teach providing two slots on the back surface 225. It would have been obvious to provide extra slots on the front surface and on the back surface to a taller fence so that an attachment can be secured better to the fence. Price teaches providing tapered surfaces instead of L-shaped edges to reduce sharp edges of the slot. See Fig. 6. Therefore, it would have been obvious to provide tapered surface for the slots to prevent self-injury by operators.

Regarding claims 3-7, 13, the combination of Duginske and Price teaches T-shaped grooves but does not teach plus-shaped grooves. T-shaped grooves and plus-

shaped grooves are art equivalent. Therefore, it would have been obvious to substitute one for another.

Threaded shafts 232 and locking rings 234 are best seen in Fig. 2 in Duginske.

An L-shaped stop attachment 56 is best seen in Fig. 1 in Duginske.

5. Claim 11 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duginske (5,768,966) in view of Price (4,693,158) and further in view of Schuler (4,817,693). The combination of Duginske and Price teaches everything but does not teach providing threaded ports and threaded inserts to tilt the fence relatively to the locking device. Schuler teaches tilting a fence 120 to form an acute angle with the working surface. See Fig. 13. Schuler also teaches a locking mechanism having threaded ports and threaded inserts 116 capable of forming an acute angle between a fence 110 and the working surface 14. See Fig. 4. Therefore, it would have been obvious to incorporate threaded ports and threaded inserts as taught by Schuler to the combination of Duginske and Price so that the fence can form an acute angle with the working surface.
6. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Duginske (5,768,966) in view of Price (4,693,158) and further in view of Szymanski et al. (6,481,477). The combination of Duginske and Price teaches everything but does not teach mounting a vacuum on the fence. Szymanski et al. teach mounting a vacuum 52 on a fence to collect dust. See Fig. 2. Therefore, it would have been obvious to provide a vacuum to the combination of Duginske and Price to collect dust.
7. Claims 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Duginske (5,768,966) in view of Schuler (4,817,693). Duginske teaches woodworking

tool having a working surface, a fence 200 comprising an elongated body and a locking device 300. See Figs. 15 and 16. Duginske, however, do not teach providing threaded ports and threaded inserts to tilt the fence relatively to the locking device. Schuler teaches tilting a fence 120 to form an acute angle with the working surface. See Fig. 13. Schuler also teaches a locking mechanism having threaded ports and threaded inserts 116 capable of forming an acute angle between a fence 110 and the working surface 14. See Fig. 4. Therefore, it would have been obvious to incorporate threaded ports and threaded inserts as taught by Schuler to the fence assembly of Duginske so that the fence can form an acute angle with the working surface.

The inserts 116 being disposed on both sides of the groove are best seen in Fig. 4 in Schuler.

#### ***Allowable Subject Matter***

8. Claim 8 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.
9. Claims 14-~~1~~20 and 37-41 are allowed.

#### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Viazanko (4,798,113), Tucker et al. (5,779,407), Shiotani et al. (5,040,444), Kozyrski et al. (5,033,346) and Molburg (6,079,309) teach fence assemblies of general interest.
12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phong H Nguyen whose telephone number is 703-305-4989. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PN : *pn*

March 10, 2004



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